

REMARKS

In the Office Action mailed July 1, 2009 the Office noted that claims 1-13 were pending and subjected claims 1-13 to a restriction requirement. In the amendment claims 1 and 6 have been amended, no claims have been canceled, and, thus, in view of the foregoing claims 1-13 remain pending for reconsideration which is requested. No new matter has been added. The Office's restriction requirement is traversed below.

REJECTIONS under 35 U.S.C. § 112

Claims 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 112, first paragraph as failing to comply with the enablement requirement. In particular, the Office asserts that the features of Figs. 11-13 are not combinable with the embodiment of Figs. 1-10.

However, ¶ 0036 of the printed publication version of the Specification states in part "[i]n the variant of the device for transforming the wave motion into mechanic energy, shown in FIGS. 11, 12, 13, 14, 15, 16 and 17, **the following additional elements are shown:** a floating piston 20; **a toothed rod 21 for the transmission of the movement to the gearing;** a guide 22 for the sliding of he transmission shaft; a plurality of supports 23 for the guide of the shaft; **a unidirectional gear 24 for each ascending phase; a unidirectional gear 25 for each descending phase;** a plurality of outlet openings 26 for excess water; a

plurality of shafts 27 for the distribution of the mechanical motion; **a differential 28.**" (Emphasis added)

Thus, it is clear that the inventor intended and explicitly stated the elements 21, 24, 25 and 28 would additionally be added to the embodiment of Figs. 1-10 and therefore the features are enabled to one of ordinary skill in the art.

Claims 1, 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In particular the Office asserts that the claims have antecedent basis issue or are missing structural relationships.

The Applicants have amended the claims to overcome the rejection. Support for the amendment of claim 6 may be found, for example, in Fig. 13 of the Specification. The Applicants submit that no new matter is believed to have been added by the amendment of the claims.

Withdrawal of the rejections is respectfully requested.

REJECTIONS under 35 U.S.C. § 103

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being obvious over Welch, U.S. Patent Publication No. 2004/0131479 in view of McLean, U.S. Patent No. 3,595,189, further in view of Heck, U.S. patent No. 4,447,740, further in

view of Meano, U.S. Patent No. 6,800,954, and further in view of Brinkerhoff, U.S. Patent No. 4,242,878. The Applicants respectfully disagree and traverse the rejection with an argument.

On page 6 Of the Office Action it is asserted that Heck discloses "a series of submerged cylinders placed onto wharfs fixed to the ground or onto floating pontoons, *provided in their lower part with a conical opening for the water inlet and in their upper part with conical, spherical or plain shapes with lateral openings.*" (Emphasis added)

The Office then asserts that Welch is a hydro-pneumatic device for the exploitation of wave motion wherein at least one submerged cylinder 108 provided in its lower part with an opening for a water inlet (paragraph 271) and at its upper part with openings 124, 126 for producing compressed air.

One of ordinary skill in the art would not have combined the teaching of Welch with Heck. The Office asserts that Welch teaches compression at the top of the cylinder while Heck teaches the conical opening. However, the turbine of Heck would impede the production of compressed liquid/gas at the top of the cylinder as the turbine would slow the passing of the liquid reducing compression. Further, Heck actually has no cone on the top of its cylinder where liquid/gas could be compressed.

Heck, col. 4, lines 39-49 states

FIGS. 4-7 as aforementioned, illustrate the variable

reversible blade pitch of turbine vanes 32. FIG. 4 illustrated in phantom lines vanes 32 as they move between various pitched positions. A neutral position of vanes 32 is illustrated in phantom lines also in FIG. 4. The reversability of vanes 32 is accomplished as **changes wave generator 10 direction of travel upwardly or downwardly in accordance with wave action.** Vanes 32 are mounted upon shafts 32S to the hub 33 capped with nose guard (see FIGS. 4A-4B) in such a manner as to be rotatably mounted on vane shafts 32S enabling vane pitch to change. [Emphasis added]

Thus, it is clear that Heck assumes that liquid can pass in either direction and therefore is antithetical to being placed in device such as Welch where compression is required at one end of the cylinder.

Further, the Office states that "[i]n regard to the limitation that the openings are lateral, even if the side by side openings of Welch are not interpreted as lateral, but rather laterally is more narrowly defined as along the sides of the cylinder, this would constitute an obvious rearrangement of parts well known in the art. Meano teaches a wave energy pump with lateral openings 23 and 12 for the transport of compressed air."

However, the lateral openings are not a design choice for compressed liquids in Heck above, as there is not compression of the liquid requiring such an opening. Further, in Meano elements 12 and 23 do not take compressed gas/liquid from the top of the cone but instead, **"return conduit 12** for delivering the fluid back to the pressurization chambers 2 from reservoir 6. (Emphasis added) (See col. 3, lines 4 and 5) Thus in Meano conduit 12 delivers uncompressed liquid back to the

pressurization chamber.

Likewise, Meano col. 3, lines 44-46 states "[o]utside water can optionally be received in chamber 2 from a river, stream, or other source using, for example, an **intake line 23**." (Emphasis added) Thus, un-pressurized water intake from a stream or other source as in Meano has nothing to do with lateral opening for pressurized liquid/gas to exit.

Additionally, the Applicants respectfully state that one of ordinary skill in the art would not have been motivated to combine Welch, McLean, Heck, Meano and Brinkerhoff as they each function in a manner separate from each other and would not logically be combined.

For at least the reasons discussed above, Welch, McLean, Heck, Meano and Brinkerhoff, taken separately or in combination, fail to render obvious the features of claim 1 and the claims dependent therefrom.

Claims 6, 7, 9 and 10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Welch in view of McLean in view of Heck in view of Meano in view of Brinkerhoff in further view of Scott, U.S. Patent No. 4,418,286. The Applicants respectfully disagree and traverse the rejection with an argument.

One of ordinary skill in the art would not have combined the teachings of Welch, McLean, Heck, Meano and Brinkerhoff with Scott. Scott's invention relates specifically to an electric energy generator and not to a device arranged for

transforming wave motion energy into a mechanical movement. Therefore one of ordinary skill in the art would not have looked to the Scott device to solve the deficiencies of the other references.

For at least the reasons discussed above, Welch, McLean, Heck, Meano, Brinkerhoff and Scott, taken separately or in combination, fail to render obvious the features of claims 7, 9 and 10.

Withdrawal of the rejection is respectfully requested.

#### SUMMARY

It is submitted that claims 1-13 continue to be allowable. It is further submitted that the claims are not taught, disclosed or suggested by the prior art. The claims are therefore in a condition suitable for allowance. An early Notice of Allowance is requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional  
fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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